



April 6, 2007

ENGROSSED SENATE BILL No. 250

DIGEST OF SB 250 (Updated April 3, 2007 11:28 am - DI 77)

Citations Affected: IC 4-4; IC 6-2.5; IC 15-4; IC 26-3; noncode.

Synopsis: Grain buyers and corn marketing. Provides that 25% of the net amount collected in the corn market development account is used for deductions for the sale of E85. Provides that corn assessments do not apply to seed corn. Provides that a producer has 180 days to claim a refund. Provides for an annual audit of the corn marketing council (council). Requires the council to have an annual audit. Provides that the council may audit first purchasers. Specifies that if the corn marketing council requires an audit, the council must pay for the audit. Provides that if first producers claim a refund of 25% of the money collected from assessments in the corn marketing program during a corn marketing year that the assessments must cease on a specific date. Creates the grain buyers and warehouse licensing agency license fee fund (fund). Provides that fees collected by the grain buyers and warehouse licensing agency are deposited in the fund.

Effective: July 1, 2007.

Jackman, Young R

(HOUSE SPONSORS — GRUBB, GUTWEIN)

January 8, 2007, read first time and referred to Committee on Agriculture and Small Business.

February 20, 2007, amended, reported favorably — Do Pass.

February 26, 2007, read second time, ordered engrossed. Engrossed.

February 27, 2007, read third time, passed. Yeas 47, nays 0.

HOUSE ACTION

March 6, 2007, read first time and referred to Committee on Agriculture and Rural Development.

April 5, 2007, amended, reported — Do Pass.

C
o
p
y

ES 250—LS 7130/DI 14+



April 6, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 250

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-4-27-3, AS AMENDED BY P.L.1-2006,
2 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 3. (a) The director of the department of agriculture
4 or the director's designee shall charge a fee of ten dollars (\$10) for each
5 moisture testing device inspected from each inspection site under this
6 chapter.
7 (b) All fees shall be deposited in the ~~state treasury~~ **grain buyers**
8 **and warehouse licensing agency license fee fund established by**
9 **IC 26-3-7-6.3.**
10 SECTION 2. IC 6-2.5-7-5, AS AMENDED BY P.L.122-2006,
11 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2007]: Sec. 5. (a) Each retail merchant who dispenses
13 gasoline or special fuel from a metered pump shall, in the manner
14 prescribed in IC 6-2.5-6, report to the department the following
15 information:
16 (1) The total number of gallons of gasoline sold from a metered
17 pump during the period covered by the report.

ES 250—LS 7130/DI 14+



C
o
p
y

(2) The total amount of money received from the sale of gasoline described in subdivision (1) during the period covered by the report.

(3) That portion of the amount described in subdivision (2) which represents state and federal taxes imposed under this article, IC 6-6-1.1, or Section 4081 of the Internal Revenue Code.

(4) The total number of gallons of special fuel sold from a metered pump during the period covered by the report.

(5) The total amount of money received from the sale of special fuel during the period covered by the report.

(6) That portion of the amount described in subdivision (5) that represents state and federal taxes imposed under this article, IC 6-6-2.5, or Section 4041 of the Internal Revenue Code.

(7) The total number of gallons of E85 sold from a metered pump during the period covered by the report.

(b) Concurrently with filing the report, the retail merchant shall remit the state gross retail tax in an amount which equals five and sixty-six hundredths percent (5.66%) of the gross receipts, including state gross retail taxes but excluding Indiana and federal gasoline and special fuel taxes, received by the retail merchant from the sale of the gasoline and special fuel that is covered by the report and on which the retail merchant was required to collect state gross retail tax. The retail merchant shall remit that amount regardless of the amount of state gross retail tax which he has actually collected under this chapter. However, the retail merchant is entitled to deduct and retain the amounts prescribed in subsection (c), IC 6-2.5-6-10, and IC 6-2.5-6-11.

(c) A retail merchant is entitled to deduct from the amount of state gross retail tax required to be remitted under subsection (b) the amount determined under STEP THREE of the following formula:

STEP ONE: Determine:

(A) the sum of the prepayment amounts made during the period covered by the retail merchant's report; minus

(B) the sum of prepayment amounts collected by the retail merchant, in the merchant's capacity as a qualified distributor, during the period covered by the retail merchant's report.

STEP TWO: Subject to subsection (d), for reporting periods ending before July 1, 2008, determine the product of:

(A) ten cents (\$0.10); multiplied by

(B) the number of gallons of E85 sold at retail by the retail merchant during the period covered by the retail merchant's report.

STEP THREE: Add the amounts determined under STEPS ONE

**C
o
p
y**



and TWO.

For purposes of this section, a prepayment of the gross retail tax is presumed to occur on the date on which it is invoiced.

(d) The total amount of deductions allowed under subsection (c) STEP TWO may not exceed two million dollars (\$2,000,000) **plus amounts deposited under IC 15-4-10-24.6** for all retail merchants in all reporting periods. A retail merchant is not required to apply for an allocation of deductions under subsection (c) STEP TWO. If the department determines that the sum of:

(1) the deductions that would otherwise be reported under subsection (c) STEP TWO for a reporting period; plus

(2) the total amount of deductions granted under subsection (c) STEP TWO in all preceding reporting periods;

will exceed two million dollars (\$2,000,000) **plus amounts deposited under IC 15-4-10-24.6**, the department shall publish in the Indiana Register a notice that the deduction program under subsection (c) STEP TWO is terminated after the date specified in the notice and that no additional deductions will be granted for retail transactions occurring after the date specified in the notice.

SECTION 3. IC 15-4-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. This chapter applies to all kinds and varieties of corn ~~including seed corn~~, marketed or sold as corn by a producer in Indiana except sweet corn and popcorn. As used in this chapter, "corn" does not include sweet corn, **seed corn**, or popcorn.

SECTION 4. IC 15-4-10-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3.5. **As used in this chapter, "dean" refers to dean of the school of agriculture at Purdue University.**

SECTION 5. IC 15-4-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. **(a)** As used in this chapter, "first purchaser" means a person who is engaged in Indiana in the business of buying grain from producers. **The term refers to a person buying or otherwise acquiring corn from:**

(1) the producer of the corn; or

(2) the Commodity Credit Corporation, if the corn is pledged as collateral for a loan issued under a price support loan program administered by the Commodity Credit Corporation.

(b) The term does not include a buyer of grain who buys less than fifty thousand (50,000) bushels of grain annually for the buyer's own use as seed or feed.

C
o
p
y



SECTION 6. IC 15-4-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. As used in this chapter, "marketing year" means the twelve (12) month period beginning ~~September~~ **October** 1 and ending the following ~~August 31~~ **September 30**.

SECTION 7. IC 15-4-10-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 10.5. As used in this chapter, "promotion" means:**

(1) communication directly with corn producers;
 (2) technical assistance; and
 (3) trade marketing activities;
to enhance the marketing opportunities of corn or corn products in domestic and foreign markets.

SECTION 8. IC 15-4-10-10.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 10.7. As used in this chapter, "research" means any type of study to advance the:**

(1) marketability;
 (2) production;
 (3) product development;
 (4) quality; or
 (5) functional or nutritional value;
of corn or corn products, including any research activity designed to identify and analyze barriers to domestic and foreign sales of corn or corn products.

SECTION 9. IC 15-4-10-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) If an ~~elected~~ a member of the council **elected or appointed under section 16(a) or 16(d) of this chapter** ceases to meet one (1) or more of the qualifications set forth in section 12(b) of this chapter, the member's term of office terminates and the member's office becomes vacant.

(b) When an elected council member's office becomes vacant before the expiration of the member's term of office, the council shall fill the vacancy by appointing a replacement member who meets the qualifications set forth in section 12(b) of this chapter. The appointee shall serve for the remainder of the unexpired term.

(c) When the office of a council member appointed under section 16(c) of this chapter to represent first purchaser organizations becomes vacant before the expiration of the member's term of office, the ~~director~~ **dean** shall fill the vacancy by appointing a replacement member who represents **a the largest trade group that represents** first purchaser

C
o
p
y



~~organization. purchasers.~~ The appointee shall serve for the remainder of the unexpired term.

(d) When an appointed council member's office representing the senate becomes vacant before the expiration of the member's term of office, the president pro tempore of the senate shall fill the vacancy by appointing a replacement member who represents the senate and is a member of the same political party as the appointed council member who vacated the office. When an appointed council member's office representing the house of representatives becomes vacant before the expiration of the member's term of office, the speaker of the house of representatives shall fill the vacancy by appointing a replacement member who represents the house of representatives and is a member of the same political party as the appointed council member who vacated the office. An appointee under this subsection shall serve for the remainder of the unexpired term.

SECTION 10. IC 15-4-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. **(a)** When necessary, the council may appoint individuals who hold offices of importance to the corn industry or have special expertise concerning that industry to participate in the work of the council. but these individuals may not participate in votes taken by the council **but are eligible for reimbursement for traveling expenses.**

(b) A person appointed under this section serves a term of three (3) years.

(c) A person appointed under this section may not serve for more than three (3) consecutive full terms.

SECTION 11. IC 15-4-10-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) One (1) council member shall be elected from each of the following districts:

DISTRICT 1. The counties of Lake, Newton, Jasper, Benton, Porter, LaPorte, Starke, White, and Pulaski.

DISTRICT 2. The counties of St. Joseph, Elkhart, Marshall, Kosciusko, Fulton, Carroll, Cass, Miami, and Wabash.

DISTRICT 3. The counties of LaGrange, Steuben, Noble, Dekalb, Whitley, Allen, Huntington, Wells, and Adams.

DISTRICT 4. The counties of Montgomery, Fountain, Warren, Tippecanoe, Vermillion, Parke, Putnam, Vigo, Clay, and Owen.

DISTRICT 5. The counties of Clinton, Boone, Tipton, Howard, Grant, Hamilton, Madison, Hendricks, Marion, Hancock, Morgan, Johnson, Shelby, Rush, Bartholomew, and Decatur.

DISTRICT 6. The counties of Blackford, Jay, Delaware, Henry, Randolph, Wayne, Fayette, and Union.

C
o
p
y



DISTRICT 7. The counties of Sullivan, Greene, Knox, Daviess, Martin, Gibson, Pike, Dubois, Posey, Vanderburgh, Warrick, and Spencer.

DISTRICT 8. The counties of Monroe, Brown, Lawrence, Jackson, Orange, Washington, Perry, Crawford, Harrison, and Floyd.

DISTRICT 9. The counties of Franklin, Jennings, Jefferson, Ripley, Dearborn, Ohio, Clark, Switzerland, and Scott.

~~DISTRICT 10. All counties in Indiana.~~

(b) The ~~dean~~ **secretary** of the ~~school~~ of agriculture at Purdue University or the ~~dean's~~ **secretary's** designee shall serve as an ex officio member of the council.

(c) The ~~director~~ **dean** shall appoint two (2) representatives of the **largest trade group representing first purchaser organizations** ~~first purchaser organizations~~ **purchasers** to serve as members of the council.

(d) The dean shall appoint two (2) council members to represent all counties in Indiana who meet the requirements under section 12(b) of this chapter. The dean shall select one (1) member from nominations submitted by the largest general farm organization in the state and one (1) member from nominations submitted by the second largest general farm organization in Indiana.

~~(d) The president pro tempore of the senate shall appoint one (1) member of the senate to serve as a member of the council. The speaker of the house of representatives shall appoint one (1) member of the house of representatives to serve as a member of the council. The members appointed under this subsection are ex officio members of the council. These appointed members shall at all times be members of different political parties. Notwithstanding any other law, the members appointed under this section are entitled to receive the per diem of members of the general assembly for time spent in attendance at the meetings of the council. Per diem of these members shall be paid by the council upon approval of the director.~~

(e) Four (4) members serve on the council, to be appointed as follows:

(1) One (1) member appointed by the president pro tempore of the senate.

(2) One (1) member appointed by the minority leader of the senate.

(3) One (1) member appointed by the speaker of the house of representatives.

(4) One (1) member appointed by the minority leader of the house of representatives.

C
o
p
y



Members appointed under this subsection serve at the pleasure of the appointing authority.

SECTION 12. IC 15-4-10-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. An election of a council member shall be held in a district in the year in which the term of the district's council member is to expire. Between ~~April~~ **January** 1 and ~~April~~ **March** 15 of that year, the council shall notify the producers of the district of the impending election by publishing one (1) notice in a statewide agricultural publication and by making information available to the news media in the district.

SECTION 13. IC 15-4-10-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) The ballot for the election of a district council member must bear the name of each producer who:

- (1) meets the qualifications set forth in section 12(b) of this chapter; and
- (2) files with the ~~director~~, **council**, before June ~~16~~ **30** of the year of the election, a petition in support of candidacy signed by ten (10) other producers who reside in the district.

(b) The ~~director~~ **council** shall provide petition forms upon request and shall make forms available:

- (1) at cooperative extension service offices located in the district; ~~The director shall determine the position of names on the ballot by drawing lots and shall provide the producers who have qualified to have their names on the ballot with advance notice of the time and place of the drawing; and~~
- (2) **via the council's Internet web site.**

(c) **The council shall allow a producer to request a ballot through the council's Internet web site.**

~~(c)~~ (d) No names other than the names of the producers who have qualified under this subsection may be printed on the ballot by the director. ~~A name may not be written in on the ballot by a producer.~~ **council. All names on the ballot must be listed in alphabetical order based on the producers' surname.**

(e) **The council shall require that each producer who submits a ballot provides a separate attestation that the person is an eligible producer.**

SECTION 14. IC 15-4-10-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) For ~~the~~ purposes of the election of a district council member, the ~~director~~ **council** shall provide an absentee ballot to every producer who:

- (1) resides outside Indiana or expects to be absent from the

**C
o
p
y**



district in which the producer resides on the day of the election;

and

(2) requests an absentee ballot from the ~~director~~ **no council not less than fifteen (15) days and not** more than thirty (30) days before the election. ~~and~~

~~(3) files with the director a notarized affidavit swearing or affirming that the producer is eligible to vote in the election.~~

(b) A producer's absentee ballot is not valid unless the ~~director~~ **council** receives the ballot ~~and the affidavit~~ from the producer at least two (2) ~~working~~ days before the election.

SECTION 15. IC 15-4-10-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. The election of a district council member shall be conducted by the council in August at voting places located within the district. The winner of an election takes office on the following ~~September~~ **October** 1.

SECTION 16. IC 15-4-10-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. (a) The council shall do the following:

(1) Elect a ~~chairman, vice chairman, president, vice president,~~ secretary, treasurer, and other officers the council considers necessary.

(2) Employ personnel and contract for services that are necessary for the proper implementation of this chapter.

(3) Bond the treasurer and such other persons as necessary to ensure adequate protection of funds received and administered by the council.

(4) Authorize the expenditure of funds and the contracting of expenditures to conduct proper activities under this chapter.

(5) Annually establish priorities and prepare and approve a budget consistent with the estimated resources of the council and the scope of this chapter.

(6) Annually publish an activities ~~and financial~~ report **and audit** and present ~~this the~~ report **and audit** to the ~~director dean and the legislative council. The report and audit must:~~

(A) be sent to the legislative council in an electronic format under IC 5-14-6; and

(B) be available on the council's Internet web site.

(7) Procure and evaluate data and information necessary for the proper implementation of this chapter.

(8) Formulate and execute assessment procedures and methods of collection.

(9) Receive and investigate, or cause to be investigated,

**C
O
P
Y**



complaints and violations of this chapter and take necessary action within its authority.

(10) Adopt bylaws and operating procedures governing operations of the council.

(11) Keep accurate accounts of all receipts and disbursements of funds handled by the council and have the receipts and disbursements audited annually by a certified public accountant.

(12) Establish and maintain an Internet web site.

~~(10)~~ **(13) Take any other action necessary for the proper implementation of this chapter.**

(b) Seven (7) affirmative votes are required for the council to take action.

SECTION 17. IC 15-4-10-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. **(a) The council shall meet at least once in each of the following periods:**

~~(1) January, February, and March;~~

~~(2) April, May, and June;~~

~~(3) July, August, and September;~~

~~(4) October, November, and December.~~

three (3) times in each marketing year at the call of the president or at the request of two-thirds (2/3) of the members of the council.

(b) The council shall comply with the requirements under IC 5-14-1.5 (open door law).

SECTION 18. IC 15-4-10-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24. (a) The council shall pay all expenses incurred under this chapter with money from the assessments remitted to the council under this chapter.

(b) The council may invest all money it receives under this chapter, including ~~assessments, gifts, and grants;~~ **any gifts or grants that are given for the express purpose of implementing this chapter,** in ~~any~~ **the same** way allowed by law for public funds.

(c) The council may expend money from assessments and from investment income not needed for expenses for the purpose of market development, **promotion, and research.**

(d) The council may not use money received, collected, or accrued under this chapter for any purpose other than the implementation of this chapter.

SECTION 19. IC 15-4-10-24.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 24.6. (a) The Indiana corn market E85 account is established within the state general fund for the**

C
o
p
y



purpose of market development. The account shall be administered by the council. The account consists of assessments the council deposits under subsection (b).

(b) Twenty-five percent (25%) of the net amount of money collected by the council each marketing year under section 26 of this chapter must be deposited quarterly into the account to be used to provide E85 retail merchant deductions allowed under IC 6-2.5-7-5(d). Money in the account may not be used for any other purpose except as allowed under this section.

(c) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(d) On July 1 of each year the budget agency shall determine the amount of deductions allowed under IC 6-2.5-7-5(d) and transfer from the account to the state general fund any amount of deductions allowed under IC 6-2.5-7-5(d) that exceeds two million dollars (\$2,000,000).

(e) Money in the account at the end of a state fiscal year does not revert to the state general fund. Money in the account may not be transferred except as allowed under this section.

(f) Money in the account is continually appropriated to the budget agency for purposes of this section.

SECTION 20. IC 15-4-10-26, AS AMENDED BY P.L.1-2006, SECTION 247, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 26. (a) An assessment of:

(1) one-quarter cent (\$.0025) per bushel until December 31, 2009; and

(2) one-half cent (\$.005) per bushel is ~~permitted after~~ **December 31, 2009;**

~~shall be collected~~ on all corn sold in Indiana. The assessment may be imposed and collected on a quantity of corn only once and shall be collected by the first purchaser. ~~if the producer exercises the option under subsection (b) to be included in the assessment. An assessment shall not be conducted on the producer without the producer's written consent.~~ The rate of the assessment imposed by this section may be ~~increased~~ **changed** only by the general assembly.

(b) In conjunction with the producer's first settlement with the first purchaser following June 30, 2001, the first purchaser shall make available to the producer the forms granting the producer the option to be included in the assessment and inform the producer of the option to be included. If the producer desires to be included in the assessment;

C
o
p
y



the producer shall complete and sign a form, in writing, indicating the producer's desire to be included in the assessment permitted by subsection (a). It is a producer's obligation to return enrollment forms to a first purchaser. The first purchaser shall keep a record of each producer's desire to be included in the assessment, as indicated on the completed forms. Forms completed by a producer shall remain in effect until repealed in writing by the producer and delivered to the first purchaser. The initial enrollment by producers who want to participate in the corn marketing program must occur from July 1, 2001, through August 31, 2001. Corn market development assessments collected by a first purchaser begin on September 15, 2001. A change in participation by a producer to be included in the assessment or to discontinue the assessment does not take effect until July 1 following the producer's election to change. The department of agriculture shall prescribe the forms to be used under this subsection and distribute the forms to the first purchaser prior to July 1, 2001. The council shall reimburse the department of agriculture for the costs of preparation and distribution of the forms required by this subsection from the funds the council receives under this chapter. Auditing fees collected from this program and all other programs by the Indiana grain buyers and warehouse licensing agency revert to the office of agriculture account to cover administrative costs.

(c) If the producer indicates the desire to be included in the assessment permitted under subsection (a) by following the procedure described in subsection (b) The first purchaser of a quantity of corn shall deduct the assessment on the corn from the sum of money to be paid to the producer based on the sale of the corn. A first purchaser shall accumulate assessments collected under this subsection throughout each of the following periods:

- (1) January, February, and March.
- (2) April, May, and June.
- (3) July, August, and September.
- (4) October, November, and December.

~~(d)~~ (c) At the end of each period, the first purchaser shall remit to the council all assessments collected during the period. A first purchaser who remits all assessments collected during a period within ~~fifteen (15)~~ **thirty (30)** days after the end of the period is entitled to retain three percent (3%) of the total of the assessments as a handling fee.

SECTION 21. IC 15-4-10-26.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 26.5. (a) If a producer has sold**

**C
o
p
y**



1 corn and the state assessment was deducted from the sale price of
2 the corn, the producer may secure a refund equal to the amount
3 deducted upon filing a written application.

4 (b) A producer's application for a refund under this section
5 must be made to the council within one hundred eighty (180) days
6 after the state assessment is deducted from the sale price of the
7 producer's corn.

8 (c) The council shall provide application forms to a first
9 purchaser for purposes of this section upon request and make
10 application forms available on the council's Internet web site. The
11 first purchaser shall make an application form available to each
12 producer along with each settlement form that is shown a
13 deduction.

14 (d) Proof that an assessment has been deducted from the sale
15 price of the producer's corn must be attached to each application
16 for a refund submitted under this section by a producer. The proof
17 that an assessment was deducted may be in the form of a duplicate
18 or an original copy of the purchase invoice or settlement sheet
19 from the first purchaser. The claim form and proof of assessment
20 may be mailed or faxed to the council. The refund form must
21 clearly state how to request a refund and the address where it must
22 be mailed or faxed.

23 (e) If a refund is due under this section, the council shall remit
24 the refund to the producer not later than thirty (30) days after the
25 date the producer's application is received.

26 SECTION 22. IC 15-4-10-27 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a) A first
28 purchaser shall keep detailed records of all assessments collected and
29 remitted under this chapter **for at least three (3) years.**

30 (b) Upon request, a first purchaser shall supply the council with any
31 information from records kept under subsection (a).

32 (c) **The council may periodically audit a first purchaser's**
33 **checkoff assessment and remittance records as kept under**
34 **subsection (a). An audit must be conducted by a qualified public**
35 **accountant of the council's choosing, and the costs of the audit shall**
36 **be paid by the council.**

37 SECTION 23. IC 15-4-10-30 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 30. (a) If a first
39 purchaser fails to remit the assessments collected during a period
40 defined in section 26 of this chapter within ~~forty-five (45)~~ **thirty (30)**
41 days after the end of the period, the council shall contact the first
42 purchaser and allow the first purchaser to present comments to the

C
o
p
y



council concerning:

- (1) the status and amount of the assessments due; and
- (2) any reasons why the council should not bring legal action against the first purchaser.

(b) After allowing a first purchaser the opportunity to present comments, the council:

- (1) ~~shall~~ **may** adjust the amount of the assessments due, if the first purchaser's comments reveal that the council's figure is inaccurate; ~~and~~
- (2) may assess a penalty against the first purchaser; ~~of no more than ten percent (10%) of the amount of any assessments not remitted within forty-five (45) days after the end of the period.~~

(3) shall:

- (A) assess a fee for an unpaid assessment due the council, from a person responsible for remitting assessments, at the rate of two percent (2%) of the amount of the unpaid assessment each month, beginning with the day following the date the assessment is due under this subsection; and**
- (B) if there is any remaining amount due after the assessment of the fee under clause (A), assess a fee at the same rate on the corresponding day of each month thereafter until the entire amount of the unpaid assessment is paid;**

(4) shall compute the amounts payable on unpaid assessments under this section monthly and include any unpaid late charges previously applied under this section; and

(5) shall determine the date of a payment for purposes of this subsection by the postmark applied to the remitting envelope.

(c) If a first purchaser fails to remit assessments after being allowed to present comments under subsection (a) or to pay any penalty assessed under subsection (b), the council may bring a civil action against the first purchaser in the circuit, superior, or municipal court of any county. The action shall be tried and a judgment rendered as in any other proceeding for the collection of a debt. In an action under this subsection, the council may obtain:

- (1) a judgment in the amount of all unremitted assessments and any unpaid penalty; and
- (2) an award of the costs of bringing the action.

SECTION 24. IC 15-4-10-32 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 32. (a) Proceeds of the checkoff assessment collected by the council under this chapter may not be**

**C
O
P
Y**



used to influence legislation or governmental action or policy.

(b) Proceeds of the assessment collected under this chapter may be used to communicate information relating to the:

- (1) conduct;
- (2) implementation; or
- (3) results;

of promotion, research, and market development activities to appropriate government officials.

(c) After January 1, 2009, proceeds of the assessment collected under this chapter may be used for action designed to market corn or corn products directly to a foreign government or a political subdivision of a foreign government. However, not more than five percent (5%) of the annual amount collected may be used under this subsection.

SECTION 25. IC 15-4-10-33 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 33. (a) Beginning October 1, 2009, if at least twenty-five percent (25%) of the assessment is refunded during a marketing year, the council shall:

- (1) cease collecting the assessment on the subsequent January 11 on the subsequent year;
- (2) maintain a sufficient amount of money to pay for any refunds requested by producers; and
- (3) request that the legislative council have legislation prepared to repeal the corn market law.

(b) The dean and the council shall report the amounts collected and refunded to the legislative council. The report to the legislative council must be in an electronic format under IC 5-14-6.

SECTION 26. IC 15-4-10-34 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 34. The checkoff assessment and remittance record form must:

- (1) be in a format that allows a corn producer to submit the same form for an assessment refund;
- (2) contain the address and fax number of where the assessment refund form may be sent;
- (3) information concerning procedures to claim an assessment refund; and
- (4) any other information determined necessary by the council.

SECTION 27. IC 26-3-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The agency may

C
O
P
Y



1 issue the following licenses:

2 (1) A grain bank license may be issued to a person that:

3 (A) stores only grain bank grain;

4 (B) has a storage capacity of not more than fifty thousand
5 (50,000) bushels of grain; and

6 (C) purchases less than fifty thousand (50,000) bushels of
7 grain per year.

8 (2) A warehouse license may be issued to a person that:

9 (A) stores grain for hire; and

10 (B) purchases less than fifty thousand (50,000) bushels of
11 grain per year.

12 (3) A grain buyer license may be issued to a person that:

13 (A) purchases annually at least fifty thousand (50,000) bushels
14 of grain that are not for the sole purpose of feeding the
15 person's own livestock or poultry;

16 (B) does not store grain for hire; and

17 (C) offers deferred pricing, delayed payments, or contracts
18 linked to the commodity futures or commodity options market
19 in connection with grain purchases.

20 (4) A buyer-warehouse license may be issued to a person that
21 operates both as a warehouse and as a grain buyer.

22 (b) An applicant shall file with the director a separate application
23 for each license or amendment of a license at the times, on the forms,
24 and containing the information that the director prescribes.

25 (c) An initial application for a license must be accompanied by a
26 license fee as follows:

27 (1) For a grain bank or for a warehouse or buyer-warehouse with
28 a storage capacity of less than two hundred fifty thousand
29 (250,000) bushels, two hundred fifty dollars (\$250) for the first
30 facility and fifty dollars (\$50) for each additional facility.

31 (2) For a warehouse or a buyer-warehouse with a storage capacity
32 of at least two hundred fifty thousand (250,000) bushels but less
33 than one million (1,000,000) bushels, five hundred dollars (\$500)
34 for the first facility and fifty dollars (\$50) for each additional
35 facility.

36 (3) For a warehouse or a buyer-warehouse with a storage capacity
37 of at least one million (1,000,000) bushels but less than ten
38 million (10,000,000) bushels, seven hundred fifty dollars (\$750)
39 for the first facility and fifty dollars (\$50) for each additional
40 facility.

41 (4) For a warehouse or buyer-warehouse with a storage capacity
42 greater than ten million (10,000,000) bushels, one thousand

C
o
p
y



dollars (\$1,000) for the first facility and fifty dollars (\$50) for each additional facility.

(5) For a grain buyer, including a grain buyer that is also licensed as a warehouse under the warehouse act, five hundred dollars (\$500) for the first facility and fifty dollars (\$50) for each additional facility.

The director may prorate the initial application fee for a license that is issued at least thirty (30) days after the anniversary date of the licensee's business.

(d) Before the anniversary date of the license, the licensee shall pay an annual fee in an amount equal to the amount required under subsection (c).

(e) A licensee or an applicant for an initial license must have a minimum current asset to current liability ratio of one to one (1:1) or better.

(f) An applicant for an initial license shall submit with the person's application a review level financial statement or better financial statement that reflects the applicant's financial situation on a date not more than fifteen (15) months before the date on which the application is submitted. Not more than ninety (90) days after the end of a licensee's fiscal year, the licensee shall file with the agency a current review level financial statement or better financial statement that reflects the licensee's financial situation for the fiscal year just ended.

A financial statement submitted under this section must:

- (1) be prepared by an independent accountant certified under IC 25-2.1;
- (2) comply with generally accepted accounting principles; and
- (3) contain:
 - (A) an income statement;
 - (B) a balance sheet;
 - (C) a statement of cash flow;
 - (D) a statement of retained earnings;
 - (E) the preparer's notes; and
 - (F) other information the agency may require.

The director may adopt rules under IC 4-22-2 to allow the agency to accept other substantial supporting documents instead of those listed to determine the financial solvency of the applicant if the director determines that providing the listed documents creates a financial or other hardship on the applicant or licensee.

(g) An application for a license implies a consent to be inspected.

(h) A person that:

- (1) does not operate a facility used to store grain for hire;

C
o
p
y



(2) purchases:

(A) less than fifty thousand (50,000) bushels of grain per year;
or

(B) only grain used for the production of the person's own
livestock or poultry; and

(3) does not purchase grain by:

(A) offering deferred pricing;

(B) offering delayed payment; or

(C) offering other contracts;

that are linked to the commodity futures or commodity options
market;

is not required to be licensed.

(i) Fees collected under this section shall be deposited in the grain buyers and warehouse licensing agency license fee fund established by section 6.3 of this chapter.

SECTION 28. IC 26-3-7-6.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 6.3. (a) The grain buyers and warehouse licensing agency license fee fund is established to provide funds for the administration of this chapter. The fund shall be administered by the agency. The fund consists of:**

(1) the moisture testing device inspection fees collected under IC 4-4-27-3;

(2) the licensing fees collected under section 6 of this chapter;

(3) gifts and bequests; and

(4) appropriations made by the general assembly.

(b) Expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 29. [EFFECTIVE JULY 1, 2007] **(a) The definitions in IC 15-4-10 apply to this SECTION.**

(b) Money in the Indiana corn market development account under IC 15-4-10-24.5 shall be used to pay for the administrative costs of the requirements under IC 15-4-10, as amended by this act. However, if the money in the Indiana corn market development account is insufficient to pay for the administrative costs, the council may borrow funds to pay for the administrative costs.

C
o
p
y



1 (c) Before September 1, 2007, the council shall prepare and
 2 deliver all necessary forms concerning assessment refunds and
 3 information concerning the operation of the program to all first
 4 producers.
 5 (d) This SECTION expires July 1, 2008.
 6 SECTION 30. [EFFECTIVE JULY 1, 2007] (a) The definitions in
 7 IC 15-4-10 apply to this SECTION.
 8 (b) Notwithstanding IC 15-4-10-15(b), as amended by this act,
 9 the three (3) year term limit begins for individuals appointed by
 10 the council after July 1, 2007.
 11 (c) This SECTION expires July 1, 2010.

**C
o
p
y**



COMMITTEE REPORT

Madam President: The Senate Committee on Agriculture and Small Business, to which was referred Senate Bill No. 250, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

Page 4, delete lines 29 through 30.

and when so amended that said bill do pass.

(Reference is to SB 250 as introduced.)

NUGENT, Chairperson

Committee Vote: Yeas 9, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred Senate Bill 250, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals and to make an appropriation.

Page 1, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 2. IC 6-2.5-7-5, AS AMENDED BY P.L.122-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) Each retail merchant who dispenses gasoline or special fuel from a metered pump shall, in the manner prescribed in IC 6-2.5-6, report to the department the following information:

- (1) The total number of gallons of gasoline sold from a metered pump during the period covered by the report.
- (2) The total amount of money received from the sale of gasoline described in subdivision (1) during the period covered by the report.
- (3) That portion of the amount described in subdivision (2) which represents state and federal taxes imposed under this article,

ES 250—LS 7130/DI 14+



C
o
p
y

IC 6-6-1.1, or Section 4081 of the Internal Revenue Code.

(4) The total number of gallons of special fuel sold from a metered pump during the period covered by the report.

(5) The total amount of money received from the sale of special fuel during the period covered by the report.

(6) That portion of the amount described in subdivision (5) that represents state and federal taxes imposed under this article, IC 6-6-2.5, or Section 4041 of the Internal Revenue Code.

(7) The total number of gallons of E85 sold from a metered pump during the period covered by the report.

(b) Concurrently with filing the report, the retail merchant shall remit the state gross retail tax in an amount which equals five and sixty-six hundredths percent (5.66%) of the gross receipts, including state gross retail taxes but excluding Indiana and federal gasoline and special fuel taxes, received by the retail merchant from the sale of the gasoline and special fuel that is covered by the report and on which the retail merchant was required to collect state gross retail tax. The retail merchant shall remit that amount regardless of the amount of state gross retail tax which he has actually collected under this chapter. However, the retail merchant is entitled to deduct and retain the amounts prescribed in subsection (c), IC 6-2.5-6-10, and IC 6-2.5-6-11.

(c) A retail merchant is entitled to deduct from the amount of state gross retail tax required to be remitted under subsection (b) the amount determined under STEP THREE of the following formula:

STEP ONE: Determine:

(A) the sum of the prepayment amounts made during the period covered by the retail merchant's report; minus

(B) the sum of prepayment amounts collected by the retail merchant, in the merchant's capacity as a qualified distributor, during the period covered by the retail merchant's report.

STEP TWO: Subject to subsection (d), for reporting periods ending before July 1, 2008, determine the product of:

(A) ten cents (\$0.10); multiplied by

(B) the number of gallons of E85 sold at retail by the retail merchant during the period covered by the retail merchant's report.

STEP THREE: Add the amounts determined under STEPS ONE and TWO.

For purposes of this section, a prepayment of the gross retail tax is presumed to occur on the date on which it is invoiced.

(d) The total amount of deductions allowed under subsection (c) STEP TWO may not exceed two million dollars (\$2,000,000) **plus**

C
o
p
y



amounts deposited under IC 15-4-10-24.6 for all retail merchants in all reporting periods. A retail merchant is not required to apply for an allocation of deductions under subsection (c) STEP TWO. If the department determines that the sum of:

- (1) the deductions that would otherwise be reported under subsection (c) STEP TWO for a reporting period; plus
- (2) the total amount of deductions granted under subsection (c) STEP TWO in all preceding reporting periods;

will exceed two million dollars (\$2,000,000) **plus amounts deposited under IC 15-4-10-24.6**, the department shall publish in the Indiana Register a notice that the deduction program under subsection (c) STEP TWO is terminated after the date specified in the notice and that no additional deductions will be granted for retail transactions occurring after the date specified in the notice.

SECTION 2. IC 15-4-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. This chapter applies to all kinds and varieties of corn ~~including seed corn~~, marketed or sold as corn by a producer in Indiana except sweet corn and popcorn. As used in this chapter, "corn" does not include sweet corn, **seed corn**, or popcorn.

SECTION 3. IC 15-4-10-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3.5. As used in this chapter, "**dean**" refers to **dean of the school of agriculture at Purdue University**.

SECTION 4. IC 15-4-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) As used in this chapter, "first purchaser" means a person who is engaged in Indiana in the business of buying grain from producers. **The term refers to a person buying or otherwise acquiring corn from:**

- (1) **the producer of the corn; or**
- (2) **the Commodity Credit Corporation, if the corn is pledged as collateral for a loan issued under a price support loan program administered by the Commodity Credit Corporation.**

(b) The term does not include a buyer of grain who buys less than fifty thousand (50,000) bushels of grain annually for the buyer's own use as seed or feed.

SECTION 5. IC 15-4-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. As used in this chapter, "marketing year" means the twelve (12) month period beginning ~~September~~ **October** 1 and ending the following ~~August 31~~. **September 30.**



C
o
p
y

SECTION 6. IC 15-4-10-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 10.5. As used in this chapter, "promotion" means:**

- (1) communication directly with corn producers;
- (2) technical assistance; and
- (3) trade marketing activities;

to enhance the marketing opportunities of corn or corn products in domestic and foreign markets.

SECTION 7. IC 15-4-10-10.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 10.7. As used in this chapter, "research" means any type of study to advance the:**

- (1) marketability;
- (2) production;
- (3) product development;
- (4) quality; or
- (5) functional or nutritional value;

of corn or corn products, including any research activity designed to identify and analyze barriers to domestic and foreign sales of corn or corn products.

SECTION 8. IC 15-4-10-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 14. (a) If an elected a member of the council elected or appointed under section 16(a) or 16(d) of this chapter** ceases to meet one (1) or more of the qualifications set forth in section 12(b) of this chapter, the member's term of office terminates and the member's office becomes vacant.

(b) When an elected council member's office becomes vacant before the expiration of the member's term of office, the council shall fill the vacancy by appointing a replacement member who meets the qualifications set forth in section 12(b) of this chapter. The appointee shall serve for the remainder of the unexpired term.

(c) When the office of a council member appointed under section 16(c) of this chapter to represent first purchaser organizations becomes vacant before the expiration of the member's term of office, the ~~director~~ **dean** shall fill the vacancy by appointing a replacement member who represents ~~a the largest trade group that represents first purchaser organization. purchasers.~~ **purchasers.** The appointee shall serve for the remainder of the unexpired term.

(d) When an appointed council member's office representing the senate becomes vacant before the expiration of the member's term of office, the president pro tempore of the senate shall fill the vacancy by

C
o
p
y



appointing a replacement member who represents the senate and is a member of the same political party as the appointed council member who vacated the office. When an appointed council member's office representing the house of representatives becomes vacant before the expiration of the member's term of office, the speaker of the house of representatives shall fill the vacancy by appointing a replacement member who represents the house of representatives and is a member of the same political party as the appointed council member who vacated the office. An appointee under this subsection shall serve for the remainder of the unexpired term.

SECTION 9. IC 15-4-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) When necessary, the council may appoint individuals who hold offices of importance to the corn industry or have special expertise concerning that industry to participate in the work of the council. but these individuals may not participate in votes taken by the council **but are eligible for reimbursement for traveling expenses.**

(b) **A person appointed under this section serves a term of three (3) years.**

(c) **A person appointed under this section may not serve for more than three (3) consecutive full terms.**

SECTION 10. IC 15-4-10-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) One (1) council member shall be elected from each of the following districts:

DISTRICT 1. The counties of Lake, Newton, Jasper, Benton, Porter, LaPorte, Starke, White, and Pulaski.

DISTRICT 2. The counties of St. Joseph, Elkhart, Marshall, Kosciusko, Fulton, Carroll, Cass, Miami, and Wabash.

DISTRICT 3. The counties of LaGrange, Steuben, Noble, Dekalb, Whitley, Allen, Huntington, Wells, and Adams.

DISTRICT 4. The counties of Montgomery, Fountain, Warren, Tippecanoe, Vermillion, Parke, Putnam, Vigo, Clay, and Owen.

DISTRICT 5. The counties of Clinton, Boone, Tipton, Howard, Grant, Hamilton, Madison, Hendricks, Marion, Hancock, Morgan, Johnson, Shelby, Rush, Bartholomew, and Decatur.

DISTRICT 6. The counties of Blackford, Jay, Delaware, Henry, Randolph, Wayne, Fayette, and Union.

DISTRICT 7. The counties of Sullivan, Greene, Knox, Daviess, Martin, Gibson, Pike, Dubois, Posey, Vanderburgh, Warrick, and Spencer.

DISTRICT 8. The counties of Monroe, Brown, Lawrence, Jackson, Orange, Washington, Perry, Crawford, Harrison, and

C
o
p
y



Floyd.

DISTRICT 9. The counties of Franklin, Jennings, Jefferson, Ripley, Dearborn, Ohio, Clark, Switzerland, and Scott.

~~DISTRICT 10. All counties in Indiana.~~

(b) The ~~dean~~ **secretary** of the ~~school~~ of agriculture at ~~Purdue University~~ or the ~~dean's~~ **secretary's** designee shall serve as an ex officio member of the council.

(c) The ~~director~~ **dean** shall appoint two (2) representatives of **the largest trade group representing first purchaser organizations** ~~purchasers~~ to serve as members of the council.

(d) **The dean shall appoint two (2) council members to represent all counties in Indiana who meet the requirements under section 12(b) of this chapter. The dean shall select one (1) member from nominations submitted by the largest general farm organization in the state and one (1) member from nominations submitted by the second largest general farm organization in Indiana.**

(~~d~~) The president pro tempore of the senate shall appoint one (~~1~~) member of the senate to serve as a member of the council. The speaker of the house of representatives shall appoint one (~~1~~) member of the house of representatives to serve as a member of the council. The members appointed under this subsection are ex officio members of the council. These appointed members shall at all times be members of different political parties. Notwithstanding any other law, the members appointed under this section are entitled to receive the per diem of members of the general assembly for time spent in attendance at the meetings of the council. Per diem of these members shall be paid by the council upon approval of the director.

(e) **Four (4) members serve on the council, to be appointed as follows:**

(1) One (1) member appointed by the president pro tempore of the senate.

(2) One (1) member appointed by the minority leader of the senate.

(3) One (1) member appointed by the speaker of the house of representatives.

(4) One (1) member appointed by the minority leader of the house of representatives.

Members appointed under this subsection serve at the pleasure of the appointing authority.

SECTION 11. IC 15-4-10-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. An election of a council member shall be held in a district in the year in which the term

C
o
p
y



of the district's council member is to expire. Between ~~April~~ **January** 1 and ~~April~~ **March** 15 of that year, the council shall notify the producers of the district of the impending election by publishing one (1) notice in a statewide agricultural publication and by making information available to the news media in the district.

SECTION 12. IC 15-4-10-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) The ballot for the election of a district council member must bear the name of each producer who:

- (1) meets the qualifications set forth in section 12(b) of this chapter; and
- (2) files with the ~~director~~, **council**, before June ~~16~~ **30** of the year of the election, a petition in support of candidacy signed by ten (10) other producers who reside in the district.

(b) The ~~director~~ **council** shall provide petition forms upon request and shall make forms available:

- (1) at cooperative extension service offices located in the district; ~~The director shall determine the position of names on the ballot by drawing lots and shall provide the producers who have qualified to have their names on the ballot with advance notice of the time and place of the drawing; and~~
- (2) **via the council's Internet web site.**

(c) **The council shall allow a producer to request a ballot through the council's Internet web site.**

~~(c)~~ (d) No names other than the names of the producers who have qualified under this subsection may be printed on the ballot by the ~~director~~. **A name may not be written in on the ballot by a producer: council. All names on the ballot must be listed in alphabetical order based on the producers' surname.**

(e) **The council shall require that each producer who submits a ballot provides a separate attestation that the person is an eligible producer.**

SECTION 13. IC 15-4-10-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) For ~~the~~ purposes of the election of a district council member, the ~~director~~ **council** shall provide an absentee ballot to every producer who:

- (1) resides outside Indiana or expects to be absent from the district in which the producer resides on the day of the election; **and**
- (2) requests an absentee ballot from the ~~director~~ **no council not less than fifteen (15) days and not** more than thirty (30) days before the election. ~~and~~

**C
o
p
y**



~~(3) files with the director a notarized affidavit swearing or affirming that the producer is eligible to vote in the election.~~

(b) A producer's absentee ballot is not valid unless the ~~director~~ **council** receives the ballot ~~and the affidavit~~ from the producer at least two (2) ~~working~~ days before the election.

SECTION 14. IC 15-4-10-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. The election of a district council member shall be conducted by the council in August at voting places located within the district. The winner of an election takes office on the following ~~September~~ **October** 1.

SECTION 15. IC 15-4-10-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. (a) The council shall do the following:

(1) Elect a ~~chairman, vice chairman, president, vice president,~~ secretary, treasurer, and other officers the council considers necessary.

(2) Employ personnel and contract for services that are necessary for the proper implementation of this chapter.

(3) Bond the treasurer and such other persons as necessary to ensure adequate protection of funds received and administered by the council.

(4) Authorize the expenditure of funds and the contracting of expenditures to conduct proper activities under this chapter.

(5) Annually establish priorities and prepare and approve a budget consistent with the estimated resources of the council and the scope of this chapter.

(6) Annually publish an activities ~~and financial~~ report ~~and audit~~ and present ~~this the report and audit~~ to the ~~director dean and the legislative council. The report and audit must:~~

(A) be sent to the legislative council in an electronic format under IC 5-14-6; and

(B) be available on the council's Internet web site.

(7) Procure and evaluate data and information necessary for the proper implementation of this chapter.

(8) Formulate and execute assessment procedures and methods of collection.

(9) Receive and investigate, or cause to be investigated, complaints and violations of this chapter and take necessary action within its authority.

(10) Adopt bylaws and operating procedures governing operations of the council.

(11) Keep accurate accounts of all receipts and disbursements

C
o
p
y



of funds handled by the council and have the receipts and disbursements audited annually by a certified public accountant.

(12) Establish and maintain an Internet web site.

~~(10)~~ **(13)** Take any other action necessary for the proper implementation of this chapter.

(b) Seven (7) affirmative votes are required for the council to take action.

SECTION 16. IC 15-4-10-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. **(a)** The council shall meet at least ~~once in each of the following periods:~~

~~(1) January, February, and March;~~

~~(2) April, May, and June;~~

~~(3) July, August, and September;~~

~~(4) October, November, and December.~~

three (3) times in each marketing year at the call of the president or at the request of two-thirds (2/3) of the members of the council.

(b) The council shall comply with the requirements under IC 5-14-1.5 (open door law).

SECTION 17. IC 15-4-10-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24. (a) The council shall pay all expenses incurred under this chapter with money from the assessments remitted to the council under this chapter.

(b) The council may invest all money it receives under this chapter, including ~~assessments, gifts, and grants;~~ **any gifts or grants that are given for the express purpose of implementing this chapter,** in ~~any the same~~ way allowed by law for public funds.

(c) The council may expend money from assessments and from investment income not needed for expenses for the purpose of market development, **promotion, and research.**

(d) The council may not use money received, collected, or accrued under this chapter for any purpose other than the implementation of this chapter.

SECTION 18. IC 15-4-10-24.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 24.6. (a) The Indiana corn market E85 account is established within the state general fund for the purpose of market development. The account shall be administered by the council. The account consists of assessments the council deposits under subsection (b).**

(b) Twenty-five percent (25%) of the net amount of money collected by the council each marketing year under section 26 of

C
O
P
Y



this chapter must be deposited quarterly into the account to be used to provide E85 retail merchant deductions allowed under IC 6-2.5-7-5(d). Money in the account may not be used for any other purpose except as allowed under this section.

(c) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(d) On July 1 of each year the budget agency shall determine the amount of deductions allowed under IC 6-2.5-7-5(d) and transfer from the account to the state general fund any amount of deductions allowed under IC 6-2.5-7-5(d) that exceeds two million dollars (\$2,000,000).

(e) Money in the account at the end of a state fiscal year does not revert to the state general fund. Money in the account may not be transferred except as allowed under this section.

(f) Money in the account is continually appropriated to the budget agency for purposes of this section.

SECTION 19. IC 15-4-10-26, AS AMENDED BY P.L.1-2006, SECTION 247, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 26. (a) An assessment of:

(1) one-quarter cent (\$.0025) per bushel until December 31, 2009; and

(2) one-half cent (\$.005) per bushel is ~~permitted after December 31, 2009;~~

~~shall be collected~~ on all corn sold in Indiana. The assessment may be imposed and collected on a quantity of corn only once and shall be collected by the first purchaser. ~~if the producer exercises the option under subsection (b) to be included in the assessment. An assessment shall not be conducted on the producer without the producer's written consent. The rate of the assessment imposed by this section may be increased~~ **changed** only by the general assembly.

(b) In conjunction with the producer's first settlement with the first purchaser following June 30, 2001, the first purchaser shall make available to the producer the forms granting the producer the option to be included in the assessment and inform the producer of the option to be included. If the producer desires to be included in the assessment, the producer shall complete and sign a form, in writing, indicating the producer's desire to be included in the assessment permitted by subsection (a). It is a producer's obligation to return enrollment forms to a first purchaser. The first purchaser shall keep a record of each producer's desire to be included in the assessment, as indicated on the

C
o
p
y



completed forms. Forms completed by a producer shall remain in effect until repealed in writing by the producer and delivered to the first purchaser. The initial enrollment by producers who want to participate in the corn marketing program must occur from July 1, 2001, through August 31, 2001. Corn market development assessments collected by a first purchaser begin on September 15, 2001. A change in participation by a producer to be included in the assessment or to discontinue the assessment does not take effect until July 1 following the producer's election to change. The department of agriculture shall prescribe the forms to be used under this subsection and distribute the forms to the first purchaser prior to July 1, 2001. The council shall reimburse the department of agriculture for the costs of preparation and distribution of the forms required by this subsection from the funds the council receives under this chapter. Auditing fees collected from this program and all other programs by the Indiana grain buyers and warehouse licensing agency revert to the office of agriculture account to cover administrative costs.

(c) If the producer indicates the desire to be included in the assessment permitted under subsection (a) by following the procedure described in subsection (b) The first purchaser of a quantity of corn shall deduct the assessment on the corn from the sum of money to be paid to the producer based on the sale of the corn. A first purchaser shall accumulate assessments collected under this subsection throughout each of the following periods:

- (1) January, February, and March.
- (2) April, May, and June.
- (3) July, August, and September.
- (4) October, November, and December.

~~(d)~~ (c) At the end of each period, the first purchaser shall remit to the council all assessments collected during the period. A first purchaser who remits all assessments collected during a period within ~~fifteen (15)~~ **thirty (30)** days after the end of the period is entitled to retain three percent (3%) of the total of the assessments as a handling fee.

SECTION 20. IC 15-4-10-26.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 26.5. (a) If a producer has sold corn and the state assessment was deducted from the sale price of the corn, the producer may secure a refund equal to the amount deducted upon filing a written application.**

(b) A producer's application for a refund under this section must be made to the council within one hundred eighty (180) days

C
o
p
y



after the state assessment is deducted from the sale price of the producer's corn.

(c) The council shall provide application forms to a first purchaser for purposes of this section upon request and make application forms available on the council's Internet web site. The first purchaser shall make an application form available to each producer along with each settlement form that is shown a deduction.

(d) Proof that an assessment has been deducted from the sale price of the producer's corn must be attached to each application for a refund submitted under this section by a producer. The proof that an assessment was deducted may be in the form of a duplicate or an original copy of the purchase invoice or settlement sheet from the first purchaser. The claim form and proof of assessment may be mailed or faxed to the council. The refund form must clearly state how to request a refund and the address where it must be mailed or faxed.

(e) If a refund is due under this section, the council shall remit the refund to the producer not later than thirty (30) days after the date the producer's application is received.

SECTION 21. IC 15-4-10-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a) A first purchaser shall keep detailed records of all assessments collected and remitted under this chapter **for at least three (3) years.**

(b) Upon request, a first purchaser shall supply the council with any information from records kept under subsection (a).

(c) The council may periodically audit a first purchaser's checkoff assessment and remittance records as kept under subsection (a). An audit must be conducted by a qualified public accountant of the council's choosing, and the costs of the audit shall be paid by the council.

SECTION 22. IC 15-4-10-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 30. (a) If a first purchaser fails to remit the assessments collected during a period defined in section 26 of this chapter within ~~forty-five (45)~~ **thirty (30)** days after the end of the period, the council shall contact the first purchaser and allow the first purchaser to present comments to the council concerning:

- (1) the status and amount of the assessments due; and
 - (2) any reasons why the council should not bring legal action against the first purchaser.
- (b) After allowing a first purchaser the opportunity to present

C
o
p
y



comments, the council:

(1) ~~shall~~ **may** adjust the amount of the assessments due, if the first purchaser's comments reveal that the council's figure is inaccurate; ~~and~~

(2) may assess a penalty against the first purchaser; ~~of no more than ten percent (10%) of the amount of any assessments not remitted within forty-five (45) days after the end of the period.~~

(3) **shall:**

(A) **assess a fee for an unpaid assessment due the council, from a person responsible for remitting assessments, at the rate of two percent (2%) of the amount of the unpaid assessment each month, beginning with the day following the date the assessment is due under this subsection; and**

(B) **if there is any remaining amount due after the assessment of the fee under clause (A), assess a fee at the same rate on the corresponding day of each month thereafter until the entire amount of the unpaid assessment is paid;**

(4) **shall compute the amounts payable on unpaid assessments under this section monthly and include any unpaid late charges previously applied under this section; and**

(5) **shall determine the date of a payment for purposes of this subsection by the postmark applied to the remitting envelope.**

(c) If a first purchaser fails to remit assessments after being allowed to present comments under subsection (a) or to pay any penalty assessed under subsection (b), the council may bring a civil action against the first purchaser in the circuit, superior, or municipal court of any county. The action shall be tried and a judgment rendered as in any other proceeding for the collection of a debt. In an action under this subsection, the council may obtain:

(1) a judgment in the amount of all unremitted assessments and any unpaid penalty; and

(2) an award of the costs of bringing the action.

SECTION 23. IC 15-4-10-32 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 32. (a) Proceeds of the checkoff assessment collected by the council under this chapter may not be used to influence legislation or governmental action or policy.**

(b) Proceeds of the assessment collected under this chapter may be used to communicate information relating to the:

(1) conduct;

(2) implementation; or



C
O
P
Y

(3) results;
of promotion, research, and market development activities to appropriate government officials.

(c) After January 1, 2009, proceeds of the assessment collected under this chapter may be used for action designed to market corn or corn products directly to a foreign government or a political subdivision of a foreign government. However, not more than five percent (5%) of the annual amount collected may be used under this subsection.

SECTION 24. IC 15-4-10-33 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 33. (a) Beginning October 1, 2009, if at least twenty-five percent (25%) of the assessment is refunded during a marketing year, the council shall:

- (1) cease collecting the assessment on the subsequent January 11 on the subsequent year;
- (2) maintain a sufficient amount of money to pay for any refunds requested by producers; and
- (3) request that the legislative council have legislation prepared to repeal the corn market law.

(b) The dean and the council shall report the amounts collected and refunded to the legislative council. The report to the legislative council must be in an electronic format under IC 5-14-6.

SECTION 25. IC 15-4-10-34 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 34. The checkoff assessment and remittance record form must:

- (1) be in a format that allows a corn producer to submit the same form for an assessment refund;
- (2) contain the address and fax number of where the assessment refund form may be sent;
- (3) information concerning procedures to claim an assessment refund; and
- (4) any other information determined necessary by the council."

Page 4, after line 28, begin a new paragraph and insert:

"SECTION 28. [EFFECTIVE JULY 1, 2007] (a) The definitions in IC 15-4-10 apply to this SECTION.

(b) Money in the Indiana corn market development account under IC 15-4-10-24.5 shall be used to pay for the administrative costs of the requirements under IC 15-4-10, as amended by this act. However, if the money in the Indiana corn market development

C
o
p
y



account is insufficient to pay for the administrative costs, the council may borrow funds to pay for the administrative costs.

(c) Before September 1, 2007, the council shall prepare and deliver all necessary forms concerning assessment refunds and information concerning the operation of the program to all first producers.

(d) This SECTION expires July 1, 2008.

SECTION 29 [EFFECTIVE JULY 1, 2007] (a) The definitions in IC 15-4-10 apply to this SECTION.

(b) Notwithstanding IC 15-4-10-15(b), as amended by this act, the three (3) year term limit begins for individuals appointed by the council after July 1, 2007.

(c) This SECTION expires July 1, 2010."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 250 as printed February 21, 2007.)

PFLUM, Chair

Committee Vote: yeas 11, nays 0.

C
o
p
y

